

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

EMANGER LANDALE GILBERT,)	
AIS 316512,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:22cv9-RAH
)	(WO)
JOSEPH H. HEADLEY, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

On October 20, 2023, the Magistrate Judge filed a Recommendation (Doc. 63) to dismiss the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 with prejudice. Specifically, the Magistrate Judge determined the §2254 petition should be denied as time-barred under 28 U.S.C. § 2244(d)(1)(A). On October 24, 2023, Petitioner Emanger Landale Gilbert filed Objections (Doc. 64), wherein he reasserts the substantive claims as raised in his petition.

After an independent review of the record and upon consideration of the Magistrate Judge's Recommendation, it is

ORDERED as follows:

- (1) The Recommendation of the Magistrate Judge (Doc. 63) is ADOPTED;
- (2) The Petition (Doc. 1) is DENIED as time-barred under 28 U.S.C. § 2244(d)(1)(A);
- (3) The Motion to Prohibit Magistrate Judge's Response and Recommendation


(Doc. 60) and the Motion for Order of Contempt, (Doc. 61) are DENIED;
and

(4) This case is DISMISSED WITH PREJUDICE.

Furthermore, a certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, he must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This showing requires that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, he “must show not only that one or more of the claims he has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.*

Because reasonable jurists would not find the denial of Petitioner’s § 2254 petition debatable, a certificate of appealability is DENIED.

DONE, on this the 25th day of October 2023.



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE